

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3702 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

NARUBHA GHEMARSINH DARBAR

Appearance:

1. Special Civil Application No. 3702 of 2002
MR ASHISH M DAGLI for Petitioner No. 1
MR GK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 22/01/2003

ORAL JUDGEMENT

The present petition is filed by Gujarat State Road Transport Corporation (hereinafter referred to as "the Corporation") challenging the judgement and award of the Labour Court, Palanpur dated 7.8.2001 in Reference (LCP) No.69 of 1999. The learned Judge was pleased to award reinstatement of the respondent workman on his original post without back wages.

2. The facts of the case are that the respondent workman was working as driver with the petitioner corporation. On the relevant day, he had taken the bus from Palanpur to Okhapura. There, it was a 'night halt' and he had to return in the morning. At night, he took the bus out of the depot/ Bus Stand along with two other persons in search of liquor, for which the bus was driven for 99 KMs to and fro. A complaint was filed at Palanpur Police Station. A departmental inquiry was conducted and the respondent workman was imposed penalty of dismissal.

3. The learned Judge despite having recorded a finding to the effect that, 'the departmental inquiry was legal', has exercised the discretion under section 11A of the Industrial Disputes Act, 1947. The learned Judge deemed it fit to interfere with the punishment imposed. The grounds for so interfering with the punishment are discussed in subpara (2) of para 5. One of the grounds is, 'that the defence put forward by the respondent workman, namely two persons had boarded the bus and at the point of knife, forced him to take the bus out, cannot be disbelieved. The learned Judge has also noted that there are only four misconducts alleged against the present respondent workman of which none pertains to such type of misconduct, they are regarding absence only. The learned Judge also recorded that no offence under prohibition laws is registered against the respondent workman and more particularly in the records of the petitioner corporation. He has also believed that the prohibition case was falsely filed against the respondent workman because even if the incident is believed that the respondent workman was taken at the point of knife and for that he cannot be punished with dismissal. All these reasonings are arbitrary, not untenable at all and they are required to be quashed. A misconduct of such a gravity allowed to go unpunished, the only punishment is non grant of back wages. A driver taking bus from the depot in search of liquor, moving around for 99 KMs and putting forward a defence that he was forced to drive the bus at the point of knife about which he has never filed any complaint at the relevant time from which it is clear that it is nothing but a cooked up story. The same is just unbelievable and hence interference with the

punishment imposed by the petitioner corporation is uncalled for. The fact that the respondent workman had not filed any complaint which could have supported the defence that he was forced to drive the bus at the point of knife renders the defence unbelievable which the learned Judge ought to have been taken into consideration.

4. The judgement and award are hereby quashed and set aside. The petitioner corporation shall recover an amount equivalent to a charge which would have been leviable for hiring a bus for the distance for which it was found to have been run unauthorisedly, from the respondent workman with applicable rate of interest from the date it is deemed to have been due.

5. The petition is allowed. Rule is made absolute. No order as to costs.

(Ravi R. Tripathi, J.)

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